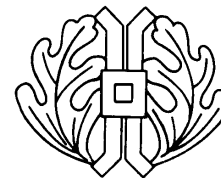


PREVENTIVE LAW SERIES

UNIFORMED SERVICES FORMER SPOUSES’ PROTECTION ACT- ELIGIBILITY FOR BENEFITS



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If you divorce a military service member, you might still be entitled to retain some, or all, of your military benefits under the Uniformed Services Former Spouses’ Protection Act (“USFSPA”).

WHEN THE USFSPA APPLIES:

Former spouses of military service members may be entitled to certain benefits under the USFSPA, assuming that the member has served long enough to retire from an active duty component or a reserve component of the Armed Forces (i.e., that (s)he has 20 years of service credible for retirement purposes).

FORMER SPOUSE ELIGIBILITY FOR BENEFITS UNDER THE USFSPA:

	Division of Retired Pay	Designation as an SBP Beneficiary ²	Direct Payment of Child Support ³	Direct Payment of Alimony ³	Direct Payment of Property Division ³	Transitional Health Care ^{4 5}	Full Health Care ⁴	Health Care Insurance ^{4 6}	Commissary	PX ⁷
0 years to less than 10 ¹	X	X	X	X				X		
10 years but less than 15	X	X	X	X	X			X		
15 years but less than 20	X	X	X	X	X	X		X		
20 or more years	X	X	X	X	X		X	X	X	X

1. Length of time that marriage overlaps with service credible for retirement purposes.
2. Federal law does not create any minimum length of overlap for this benefit; the parties’ agreement or state law will control a former spouse’s entitlement to designation as an SBP beneficiary.
3. The former spouse initiates the direct payment process by sending a written request to the appropriate finance center. Most likely this will be Defense Finance and Accounting Service, Cleveland Center, PO Box 998002, Cleveland, Ohio 44199-8802. (216) 522-5301 (Customer Service).
4. To qualify for any health care provided or paid for by the military, the former spouse must not be remarried and must not be covered by an employer-sponsored health care plan. Department of the Army interpretation of this provision holds that termination of a subsequent marriage by divorce or death does not revive this benefit, but an annulment does do so. These remarriage and employer-insurance restrictions do not limit eligibility to enroll in the civilian health care plan discussed in note 6.

5. Qualifying spouses for “transitional health care” are those who are not remarried, who have no employer-sponsored health insurance, and who meet the “20/20/25” requirement (i.e., married to the member for at least 20 years, and the member has at least 20 years of service that are creditable for retirement purposes, and the marriage overlaps at least 15 years of the creditable service). Transitional health care now includes full military health care for 1 year after the date of the divorce, and during this period the former spouse is eligible to enroll in the civilian group health care plan negotiated by DOD. A second year of military health care may be available for preexisting health problems that are not covered by the civilian health care plan.
6. The Department of Defense has negotiated a civilian group health insurance plan for any person who formerly was entitled to military health care but who subsequently has lost the entitlement (e.g., members who separate from the service at the end of their obligation and former spouses who do not qualify for health care from the military). The military does not pay for or subsidize the premiums for this insurance, but the plan includes a guaranteed insurability provision if the former spouse (or other eligible person) enrolls soon after losing the entitlement to military health care. For further information, contact the Mutual of Omaha Insurance Company and ask about the Uniformed Services Voluntary Insurance Program.
7. Pursuant to statute and service regulations, commissary and PX benefits are to be available “to the same extent and on the same basis as the surviving spouse of a retired member...” The date of divorce is no longer relevant for commissary and PX purposes. The former spouse must be “unmarried,” and unlike the rules for health care, any termination of a subsequent marriage revives these benefits.
8. A former spouse of a servicemember is **not** entitled to legal services, regardless of the length of the marriage.

LEGAL ASSISTANCE APPOINTMENTS:

For an appointment to see a legal assistance attorney, please contact the Legal Assistance Office, located in Building 610, Naval Air Station North Island, by telephone at (619) 545-6278.

RESOURCES:

Pub. L. 97-252, Title X, 96 Stat. 730 (1982), as amended.
National Defense Authorization Act, Fiscal Year 1991, Pub. L. 101-510 (1990).
Defense Finance and Accounting Service: www.dfas.mil